

MINUTES  
WATER QUALITY ASSURANCE REVOLVING FUND ADVISORY BOARD  
Salt River Project, Mohave West Conf. Room, 1521 N. Project Drive, Tempe, Arizona  
September 26, 2003

**BOARD MEMBERS IN ATTENDANCE:**

Frank Corkhill	Phil McNeely
Karen Gaylord	Karen O'Regan
Molly Greene for Kelly Barr	Chuck Shipley
Tamara Huddleston	Lee Stein
Will Humble	Tom Suriano
David Kimball	Jim Vieregg
Rick Lavis	

**BOARD MEMBERS ABSENT:**

Lori Faeth  
Janet Marcus  
Karen Masbruch  
Kerri Ann Wade

The meeting was called to order at 9:05 a.m.

**Action Items:**

1. ADEQ will prepare draft statutory language regarding delisting of WQARF Registry sites for the Legislative Committee meeting by October 31.
2. ADEQ will update the Board on what else is needed in order to finalize the end use rules.

**I. Welcome/Opening Remarks/Administrative Issues**

- A. H.B. 2531 Administrative Costs Letter** - The Board submitted a letter regarding administrative costs to the ADEQ Director on August 12, 2003. There was no response from the Director until about two weeks ago, but the Board has met its deadline.
- B. WQARF Reform Committee (November 14 report due date)** - deadline November 14; Kimball is Chair; anyone interested in participating on this committee should let the chair know.
- C. Meeting Schedule** - The October meeting was scheduled to be held in Tucson but because of ongoing QBS discussions the October meeting will be held in Phoenix.

- II. Approval of July 18, 2003 Meeting Minutes** - Mr. Kimball made a motion to adopt the draft July 18 minutes; Mr. Humble seconded the motion. The minutes were approved.

**III. Department Reports**

- A. **ADWR** - Mr. Corkhill provided a handout with the monthly budget report for July and August; the report format has been worked out with the Board. ADWR is in the process of negotiating the ISA with ADEQ. Mr. Corkhill went over the statement of revenues and expenditures for FY 02/03, the fund balance of \$413k and the FY 04/05 budget. ADWR will provide a monthly report that details activities. Chairman Lavis asked if the FY 04 budget in the handout is the established budget. Mr. Corkhill responded that it is and it represents the accurate fund balance. Chairman Lavis commented that ADWR should continue to decrease the indirect costs. Mr. Corkhill noted that the FY 05 budget is only an estimate.
- B. **ADEQ** - Chairman Lavis reminded the Board that the Tucson representatives had requested a report on Mission Linen/Park Euclid in the spring, but that the presentation had to be put off because of other pending issues. Chairman Lavis asked if ADEQ could have a presentation ready for the October meeting and Mr. McNeely responded that ADEQ could do this. Mr. McNeely discussed action items from the July meeting. ADEQ still needs to complete the report on the status on aid to municipalities; QBS meetings are ongoing; ADEQ needs to coordinate with ADWR on water rights issues and funding policies; the explanation of the ADWR carry forward has been completed. Mr. McNeely reported that a new community involvement coordinator has been hired but that ADEQ has had to cancel several meetings due to lack of staff resources. ADEQ submitted the draft ISA to ADWR on September 15. Five consent decrees representing \$1.7 million were submitted to federal court last week and there is a 30 day public comment period. Mr. McNeely provided updates on ongoing early response actions at East Central Phoenix, El Camino del Cerro, and 20<sup>th</sup> Street and Factor. The final remedy at Vulture Mill should be complete by mid January for a total of approximately \$7 million. ADEQ recently conducted a site visit at Klondyke Tailings. Salt River Project is conducting pump and treat and SVE for source removal and plume control at East Central Phoenix. There is a Payson visit on Wednesday with Karen Johnson. Chairman Lavis asked Ms. Davis whether the SRP increase in pumping effects WQARF. Ms. Davis responded that Karen Smith is working on Water Sites on Governor's drought task force. Chairman Lavis encouraged Ms. Davis to coordinate with the Water Division on this issue.

#### **IV. Committee Reports**

##### **A. Legislative Committee**

**1. QBS Ad Hoc Reform Committee** - Chairman Lavis informed the Board that there have been three meetings and that the committee has discussed three options. Marty Jones drafted new amendments (to be circulated) for consideration. The insurance issue has not been addressed yet. Chairman Lavis announced that he would like to wrap up discussions at least on options 1 and 2 by October 31. There is a strong interest in revisiting drycleaners tax because so many sites are drycleaners. The committee is now looking at a package incorporating parts of each option and may schedule an all day meeting to draft changes. Chairman Lavis stated that he is getting closer to the view of eliminating the QBS and just going to financial hardship; people should pay their fair share. Mr. Vieregg recommended talking to counsel who have negotiated only financial hard settlements.

**B. Funding Priorities Committee** - Ms. Gaylord updated the Board on the review of the E&E scoring model and informed the Board that the model needs major revisions. There is a need to distinguish better between current and potential exposures to better differentiate sites. The E&E model is not effective in assigning relative risk. The committee has identified issues and made some recommendations. The committee is looking at EPA's model which assigns points to contaminants. There are four recommendations for the programs: 1. statutory changes to allow for deferral or additional sampling; 2. revise E&E model; 3. criteria be used in making listing decisions (the committee will also bring Humble's equation suggestions for consideration in E&E revisions) also show listing/scoring on website; 4. allow for deleting sites from the Registry but keep a record on the web of deleted sites and status.

Ms. Gaylord made a motion to adopt the recommendations; Ms. O'Regan seconded the motion. Regarding the toxicology portion of the recommendation on criteria, Mr. Suriano noted that EPA has certain risk values that are under discussion and that there needs to be more discussion on toxicological values (not to necessarily use EPA). Ms. Gaylord clarified that the committee wants ADEQ to develop its own values and that EPA's are for example purposes. Mr. Humble stated that the model should use SRLs and MCLs. Mr. Vieregk asked what the content of the NFA letter would be and stated that with regard to the scoring model, he would like ADHS to be involved. Mr. Vieregk stated that he has an issue with sites staying on the Registry forever because of stigma. Ms. Gaylord recommended a process for delisting; not changing current NFA letter. Mr. Kimball stated that he fully endorses committee's recommendations. Mr. Kimball stated that draft language to address statutory changes and criteria should be prepared by the next Legislative session. The motion to accept the committee's recommendation was voted on; Mr. Vieregk voted yes with the note that he had not yet seen the language. The motion was approved. Chairman Lavis thanked the committee and asked ADEQ and the AGO to draft language for the Legislative Committee by October 31.

**C. Budget** - Mr. Shipley informed the Board that the committee met last Friday. So far there have been limited expenditures; ADEQ is still awaiting some funds. ADWR is working on the format for their expenditures report. Mr. Shipley noted that the Funding Priorities report recommendations may have budget implications; potential for impacts to the program. Mr. Shipley recommended setting up a meeting in sync with the Legislative Committee meeting to discuss FY 05 funding. Chairman Lavis noted that it will be even more difficult to maintain funding in FY 05.

**V. Other Business** - Mr. Kimball asked for a report from ADEQ on how consistency in cleanup requirements at sites would be addressed given EPA guidance documents and regulatory standards across programs. Mr. McNeely stated that ADEQ is trying to be consistent in cleanups regardless of what program a site falls under. EPA is working on their One Cleanup Program to address this issue. ADEQ is trying to be consistent in cleanups but cleanup standards can be different if contaminants are classified differently under other programs. Mr. Kimball stated that ADEQ needs to finalize the end use standards in order to have ARARs prepared. Chairman Lavis asked about the status of the end use rules. Mr. McNeely responded that there are no staff to work on end use at

this time but ADEQ does have draft rules and draft numbers. Mr. Kimball asked that ADEQ provide information on the current status and what else is needed to finalize the rules.

- VI. Public Comment** - Mr. Mike Jordan of Western States Drycleaners Association stated that he understands that there is sentiment that drycleaners represent a disproportionate share of cleanups and asked how much has been released from drycleaners. The purpose of QBS is to identify people without means to remove them from the equation; many drycleaners won't qualify for settlements if the QBS statute is changed. Insurance litigation would put drycleaners between state and insurance carriers; changes would seriously affect industry. Mr. Jordan stated that funds should be put into ADEQ's budget to clean sites. Chairman Lavis requested that Mr. Jordan send written comments so that the comments can be circulated to the Board. Chairman Lavis asked what funds Mr. Jordan was referring to with regard to putting money in the budget to clean sites. Mr. Jordan responded the \$18million in dedicated funding. Chairman Lavis responded that because of the deficit, the legislature reduced money to ADEQ. Mr. Kimball clarified that quantity is just one of the criteria that must be considered; contaminants discharged in even small quantities can create a problem and large cleanup costs; even if the QBS is changed, drycleaners are still better off than they were before when they were subject to joint and several liability. The Board wants to avoid that. Mr. Vieregg stated that ADEQ won't have orphan shares at sites where the state doesn't perform work. Michelle Bolten of NFIB stated that NFIB is very supportive of the program; appreciates being involved in discussions are supportive of QBS don't want to lower threshold.
- VII. Adjournment** - Ms. O'Reagan made a motion to adjourn; Mr. Shipley seconded the motion. The meeting was adjourned at 10:45 a.m.